



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 24, 2010

Ms. Jennifer C. Cohen
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2010-14552

Dear Ms. Cohen:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 394888 (ORA # 10-1551).

The Texas Department of Public Safety (the "department") received a request for nineteen categories of information pertaining to a named department officer. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.117, 552.130, and 552.137 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note this office recently issued Open Records Letter No. 2010-12863 (2010), a previous determination authorizing the department to withhold personnel records of commissioned officers of the department under section 552.101 of the Government Code in conjunction with section 411.00755 of the Government Code, unless the exceptions to confidentiality listed in subsections 411.00755(b)(1)-(12) or the release provisions listed in subsection 411.00755(c) are applicable. *See* Gov't Code § 411.00755(b)(1)-(12), (c). You indicate the information you have marked under section 411.00755 does not contain any of the types of information listed in subsections 411.00755(b)(1)-(12), and there is no indication

¹Although you raise section 552.1175 of the Government Code for portions of the submitted information, we note the correct exception to raise for information pertaining to an officer employed by the department is section 552.117 of the Government Code.

the release provisions in subsection 411.00755(c) are applicable in this instance. Therefore, pursuant to Open Records Letter No. 2010-12863, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 411.00755 of the Government Code. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when elements of law, facts, and circumstances have not changed, decision concludes specific, clearly delineated category of information is excepted, and governmental body is explicitly informed it need not seek a decision from this office to withhold information in response to future requests).

Section 552.117(a)(2) of the Government Code excepts from public disclosure a peace officer's home address and telephone number, social security number, and family member information regardless of whether the peace officer made an election under section 552.024 of the Government Code. Gov't Code § 552.117(a)(2). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. Accordingly, the department must withhold the information we have marked in the remaining information under section 552.117(a)(2) of the Government Code. However, no portion of the remaining information that you have highlighted constitutes the home address, home telephone number, social security number, or family member information of a peace officer. Accordingly, you may not withhold any of the remaining information under section 552.117(a)(2).

Section 552.130 of the Government Code excepts from disclosure information that relates to "a motor vehicle operator's or driver's license or permit issued by an agency of this state." *Id.* § 552.130(a)(1). In this instance, some of the information you have marked under section 552.130 consists of out-of-state motor vehicle record information and the issuing state of the Texas driver's licenses. We note that section 552.130 does not apply to out-of-state motor vehicle record information, nor does the driver's license issuing state constitute motor vehicle record information for purposes of section 552.130. Upon review, the department must withhold the Texas driver's license information we have marked under section 552.130.

Section 552.137 of the Government Code excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a), (b). The e-mail addresses you have marked are not of a type specifically excluded by section 552.137(c). *See id.* § 552.137(c). Therefore, the department must withhold the e-mail addresses you have marked under section 552.137 of the Government Code, unless their owners consent to their release.

In summary, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 411.00755 of the Government Code pursuant to Open Records Letter No. 2010-12863. The department must withhold the information we have marked under section 552.117(a)(2) of the Government

Code. The department must also withhold the Texas driver's license information we have marked under section 552.130 of the Government Code. The department must withhold the e-mail addresses you have marked under section 552.137 of the Government Code, unless their owners consent to their release.² The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/eeg

Ref: ID# 394888

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130 of the Government Code and e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.